

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN DOE,

Plaintiff,

-against-

THE CITY OF NEW YORK, NYPD SERGEANT [REDACTED]
[REDACTED], and NYPD OFFICERS JOHN AND JANE
ROES #1-10,

Defendants.

----- x

**[REDACTED]
ANSWER**

22-CV-2690-PKC

JURY TRIAL DEMANDED

Defendants City of New York (“City”), and Sgt. [REDACTED], by their attorney,
Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, for their answer to
the complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph “1” of complaint, except admit
only that [REDACTED]

2. Deny the allegations set forth in paragraph “2” of the complaint, except
deny knowledge and information sufficient to form a belief as to the truth of the allegations
regarding plaintiff, [REDACTED]

3. Deny the allegations set forth in paragraph “3” of the complaint, except
admit only that the City of New York is a municipal corporation organized under the laws of the
State of New York, and that defendant [REDACTED] was employed by the New York City Police
Department (“NYPD”) on the date of the underlying incident, and deny knowledge or

information sufficient to form a belief as to the truth of the allegations as they pertain to unidentified defendants.

4. Deny the allegations set forth in paragraph “4” of the complaint, except admit only that, on the date of the underlying incident, defendant [REDACTED] was a Sergeant with the NYPD acting at all relevant times in the lawful pursuit of his duties, and state that the allegations set forth in paragraph “5” of the complaint regarding scope of employment and color of law are legal conclusions to which no response is required.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph “5” of the complaint as they pertain to unidentified defendants.

6. Paragraph “6” of the complaint is a definition as to which no response is required.

7. Deny the allegations set forth in paragraph “7” of the complaint, except admit only that plaintiff purports to proceed as stated therein.

8. Deny the allegations set forth in paragraph “8” of the complaint, except admit only that plaintiff purports to invoke the jurisdiction of the Court as stated therein.

9. Deny the allegations set forth in paragraph “9” of the complaint, except admit only that plaintiff purports to base venue as stated therein.

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph “10” of the complaint, except state that the allegation regarding [REDACTED] is a legal conclusion as to which no response is required.

11. Paragraph “11” of the complaint is a jury demand as to which no response is required.

12. Deny the allegations set forth in paragraph “12” of the complaint, except admit only that [REDACTED]

[REDACTED] Deny knowledge or information sufficient to form a belief as to the allegations of paragraph “12” concerning [REDACTED]

13. Deny the allegations set forth in paragraph “13” of the complaint, except admit only that defendant [REDACTED] has been employed by the City as an officer of the NYPD [REDACTED]

14. Deny the allegations set forth in paragraph “14” of the complaint, except admit only that [REDACTED]

[REDACTED] deny knowledge or information sufficient to form a belief as to the allegations regarding [REDACTED].

15. Deny the allegations set forth in paragraph “15” of the complaint, ,except admit only that [REDACTED]

16. Deny the allegations set forth in paragraph “16” of the complaint, except admit only that [REDACTED]

[REDACTED]
[REDACTED].

17. Deny the allegations set forth in paragraph “17” of the complaint, except admit only, upon information and belief, [REDACTED]

[REDACTED]

18. Deny the allegations set forth in paragraph “18” of the complaint.

19. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “19” of the complaint, except admit only that [REDACTED]

[REDACTED]
[REDACTED]

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph “20,” except admit only, upon information and belief, that [REDACTED]

[REDACTED]
[REDACTED]

21. Deny the allegations set forth in paragraph “21” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations regarding [REDACTED]

22. Deny the allegations set forth in paragraph “22” of the complaint,.

23. Deny the allegations set forth in paragraph “23 of the complaint, except admit only that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] and deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph “23” [REDACTED]

[REDACTED]

24. Deny the allegations set forth in paragraph “24” of the complaint.

25. Admit the allegations set forth in paragraph “25” of the complaint, except deny knowledge or information sufficient to form a belief as to [REDACTED]

[REDACTED]

[REDACTED]

26. Admit only that [REDACTED]

[REDACTED], and deny knowledge or information sufficient to form a belief as the truth of the allegations set forth in paragraph “26” of the complaint regarding [REDACTED]

[REDACTED]

27. Admit only that, [REDACTED]

[REDACTED] and deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph “27” about [REDACTED]

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph “28” of the complaint.

29. Deny the allegations set forth in paragraph “29” of the complaint.

30. Deny the allegations set forth in paragraph “30” of the complaint, except admit only that [REDACTED]

[REDACTED]

31. Deny the allegations set forth in paragraph “31” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations [REDACTED]

32. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “32” Of the complaint

33. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “33” of the complaint.

34. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “34” of the complaint.

35. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “35” of the complaint.

36. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “36” of the complaint except admit only, upon information and belief, that [REDACTED]

37. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “37,” except admit only that, [REDACTED]

38. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “38” of the complaint except admit only, upon

information and belief, that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

39. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “39” of the complaint.

40. Deny the allegations set forth in paragraph “40” of the complaint, except admit only that, [REDACTED]

[REDACTED]

[REDACTED]

41. Deny the allegations set forth in paragraph “41” of the complaint, except admit only that, upon information and belief, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

42. Deny the allegations set forth in paragraph “42” of the complaint.

43. Deny the allegations set forth in paragraph “43” of the complaint, except admit only that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

44. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “44” of the complaint.

45. Deny the allegations set forth in paragraph “45” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations [REDACTED]

46. Deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph “46” of the complaint, except admit, upon information and belief, that [REDACTED]

[REDACTED]

47. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “47” of the complaint, except admit only that, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

48. Deny the allegations set forth in paragraph “48” of the complaint, except admit only that, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

49. Deny the allegations set forth in paragraph “49” of the complaint.

50. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “50” of the complaint.

51. Deny the allegations set forth in paragraph “51” of the complaint.

52. Deny the allegations set forth in paragraph “52” of the complaint, except admit only that, [REDACTED]

[REDACTED]

[REDACTED]

53. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “53” of the complaint, except admit only, upon information and belief, [REDACTED]

[REDACTED]

54. Deny the allegations set forth in paragraph “54” of the complaint.

55. Deny the allegations set forth in paragraph “55” of the complaint.

56. Deny the allegations set forth in paragraph “56” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations regarding [REDACTED]

57. Deny the allegations set forth in paragraph “57” of the complaint.

58. Deny the allegations set forth in paragraph “58” of the complaint.

59. Deny the allegations set forth in paragraph “59” of the complaint.

60. Defendants repeat and reallege the above paragraphs as if the same were fully set forth at length herein.

61. Deny the allegations set forth in paragraph “61” of the complaint.

62. Deny the allegations set forth in paragraph “62” of the complaint.

63. Deny the allegations set forth in paragraph “63” of the complaint.

64. Deny the allegations set forth in paragraph “64” of the complaint.

65. Deny the allegations set forth in paragraph “65” of the complaint.

66. Deny the allegations set forth in paragraph “66” of the complaint.

67. Deny the allegations set forth in paragraph “67” of the complaint.

68. Deny the allegations set forth in paragraph “68” of the complaint.

69. Defendants repeat and reallege the above paragraphs as if the same were fully set forth at length herein.

70. Deny the allegations set forth in paragraph “70” of the complaint. .

71. Deny the allegations set forth in paragraph “71” of the complaint.

72. Deny the allegations set forth in paragraph “72” of the complaint.

73. Deny the allegations set forth in paragraph “73” of the complaint.

74. Deny the allegations set forth in paragraph “74” of the complaint.

75. Deny the allegations set forth in paragraph “75” of the complaint.

76. Deny the allegations set forth in paragraph “76” of the complaint, except admit only that, [REDACTED]

[REDACTED]

77. Deny the allegations set forth in paragraph “77” of the complaint.

78. Defendants repeat and reallege the above paragraphs as if the same were fully set forth at length herein.

79. Deny the allegations set forth in paragraph “79” of the complaint.

80. Deny the allegations set forth in paragraph “80” of the complaint.

81. Deny the allegations set forth in paragraph “81” of the complaint.

82. Deny the allegations set forth in paragraph “82” of the complaint.

83. Deny the allegations set forth in paragraph “83” of the complaint.

84. Deny the allegations set forth in paragraph “84” of the complaint.

85. Deny the allegations set forth in paragraph “85” of the complaint.

86. Defendants repeat and reallege the above paragraphs as if the same were fully set forth at length herein.

87. Deny the allegations set forth in paragraph “87” of the complaint.

88. Deny the allegations set forth in paragraph “88” of the complaint.

89. Deny the allegations set forth in paragraph “89” of the complaint.

90. Deny the allegations set forth in paragraph “90” of the complaint.

91. Deny the allegations set forth in paragraph “91” of the complaint.

92. Deny the allegations set forth in paragraph “92” of the complaint.

93. Deny the allegations set forth in paragraph “93” of the complaint. except admit only that, [REDACTED]

[REDACTED]

94. Deny the allegations set forth in paragraph “94” of the complaint.

95. Defendants repeat and reallege the above paragraphs as if the same were fully set forth at length herein.

96. Deny the allegations set forth in paragraph “96” of the complaint except admit only that plaintiff purports to proceed as stated herein.

97. Deny the allegations set forth in paragraph “97” of the complaint except admit only that [REDACTED] was at all relevant times an employee of the City in the lawful pursuit of his duties as an officer of the NYPD, and deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph “97” regarding the employment of unidentified defendants.

98. Deny the allegations set forth in paragraph “98” of the complaint.

FIRST AFFIRMATIVE DEFENSE:

99. The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE:

100. Any injury alleged to have been sustained resulted from plaintiffs’ own culpable or negligent conduct and was not the proximate result of any act of any defendant.

THIRD AFFIRMATIVE DEFENSE:

101. Plaintiffs failed to comply, in whole or in part, with conditions precedent to suit.

FOURTH AFFIRMATIVE DEFENSE:

102. Defendants have not violated any rights, privileges, or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

FIFTH AFFIRMATIVE DEFENSE:

103. There was probable cause for any police action that occurred or was attempted during the underlying incident.

SIXTH AFFIRMATIVE DEFENSE:

104. Defendant [REDACTED] has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and, therefore, are protected by qualified immunity.

SEVENTH AFFIRMATIVE DEFENSE:

105. Plaintiffs failed, in whole or in part, to comply with New York General Municipal Law §§ 50(e), *et seq.*

EIGHTH AFFIRMATIVE DEFENSE:

106. At all times relevant to the acts alleged in the Complaint, the duties and functions of the municipal defendant's officials, agents and employees entailed the reasonable exercise of proper and lawful discretion. Therefore, the defendants are entitled to immunity from liability under the professional judgment rule and governmental immunity.

NINTH AFFIRMATIVE DEFENSE:

107. At all times relevant to the acts alleged in the Complaint, the individual defendants acted reasonably in the proper and lawful exercise of their discretion.

TENTH AFFIRMATIVE DEFENSE:

108. One or more defendants had no personal involvement in conduct alleged in the Complaint.

ELEVENTH AFFIRMATIVE DEFENSE:

109. Punitive damages cannot be assessed against defendant City of New York.

TWELFTH AFFIRMATIVE DEFENSE:

110. Plaintiffs' claims may be barred, in whole or in part, by the applicable statute of limitation.

THIRTEENTH AFFIRMATIVE DEFENSE:

111. To the extent that the conduct about which plaintiff complains was done by or at the direction of prosecutors, officials or agents of any [REDACTED] [REDACTED] the action is barred by the doctrine of prosecutorial immunity.

WHEREFORE, defendants request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
August 12, 2022

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Corporation Counsel of the
City of New York
Attorney for Defendants City of New York and Sgt.
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